

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 15, 2012

AMENDED IN SENATE MAY 17, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 28, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 493

Introduced by Assembly Member Perea

(Principal coauthor: Senator Alquist)

(Coauthors: Assembly Members **Alejo, Beall, Block, Blumenfield, Bonilla, Fletcher, Halderman, Huffman, Mendoza, Miller, Nestande, Olsen, V. Manuel Pérez, Portantino, Silva, Solorio, Torres, and Williams**)

(Coauthors: Senators *Anderson*, Cannella, Correa, De León, Lieu, and Rubio)

February 15, 2011

An act to amend Section 1596.86 of the Health and Safety Code, to add Sections 290.96 and 3003.6 to the Penal Code, and to add Sections 361.35, 10613.3, and 10613.4 to the Welfare and Institutions Code, relating to registered sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as amended, Perea. Registered sex offenders: community care facilities.

(1) Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California. Willful failure to register, as required, is a misdemeanor, or a felony, depending on the underlying offense. Existing law provides for the licensing and regulation of various community care and child care facilities by the State Department of Social Services.

This bill would prohibit a person required to register under the act from residing, except as specified, working, or volunteering in, among other places, foster homes or facilities licensed by the State Department of Social Services or a county child welfare services agency. Violation of this prohibition would be a misdemeanor. The bill would also authorize a juvenile court to waive this prohibition if the residence involved is that of a noncustodial parent, relative, or nonrelative extended family member who receives the placement of a child who is or may be declared a dependent of the court and the court finds that placing the child in that residence is in the child's best interest.

This bill would require specified officials who register a person under the act to make a specified determination regarding the registration, notify the person when his or her registered residence or place of employment would be prohibited by the bill, and take appropriate law enforcement action, or make a specified notification, including notifying the county child welfare agency and the Department of Social Services, as specified, if the person registers at a prohibited residence or place of employment.

This bill would ~~also~~ require the State Department of Social Services to, by January 1, 2014, provide specified public officers and persons or entities that register a person who is required to register with the addresses or other equivalent data of, among other things, foster homes or facilities that serve children under 18 years of age and that are licensed by the department or a county child welfare agency.

This bill would also require specified investigators of the State Department of Social Services to compare the residence and employment addresses of persons required to register under the act against the addresses of certain facilities, including, among others, foster homes or facilities licensed by the department or a county child welfare agency.

The bill would require investigators to immediately, or as soon as practicably possible, make a report, as specified, to the appropriate county child welfare agency and the State Department of Social Services if those addresses match.

(2) Existing law, the California Child Day Care Act, requires the Director of Social Services to annually publish and make available certain lists covering all licensed child day care facilities, other than small family day care homes, as defined, and the services for which each facility has been licensed. Existing law requires the State Department of Social Services to prevent the use of lists containing names, addresses, and other identifying information of small family day care homes, except for specified purposes, including, among others, providing the names and addresses of these small family day care homes to certain state agencies, programs, *organizations*, or plans.

This bill would include a local law enforcement agency among the agencies that may receive lists containing the names, addresses, and other identifying information of small family day care homes, as specified.

This bill would create a new crime and impose additional duties upon local officials, thereby creating a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1596.86 of the Health and Safety Code~~
2 ~~is amended to read:~~
3 ~~1596.86. (a) The director shall annually publish and make~~
4 ~~available to interested persons a list or lists covering all licensed~~
5 ~~child day care facilities, other than small family day care homes,~~
6 ~~and the services for which each facility has been licensed or issued~~

1 a special permit. The lists shall also specify the licensed capacity
2 of the facility and whether it is licensed by the department or by
3 another public agency.

4 (b) To encourage the recruitment of small family day care homes
5 and protect their personal privacy, the department shall prevent
6 the use of lists containing names, addresses and other identifying
7 information of facilities identified as small family day care homes;
8 except as follows:

9 (1) To the extent necessary to administer the licensing program.

10 (2) To the extent necessary to facilitate the placement of children
11 in these facilities.

12 (3) To provide the names and addresses of these facilities to the
13 following entities:

14 (A) Resource and referral agencies funded by the State
15 Department of Education.

16 (B) Food and nutrition programs funded by the State Department
17 of Education.

18 (C) Alternative payment programs funded by the State
19 Department of Education.

20 (D) County programs under the Greater Avenues for
21 Independence Act of 1985 (Article 3.2 (commencing with Section
22 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
23 Institutions Code), family day care organizations.

24 (E) Specialized health care service plans licensed under the
25 Knox-Keene Health Care Service Plan Act of 1975, as contained
26 in Chapter 2.5 (commencing with Section 1340), that provide
27 employee assistance program services that include child care
28 referral services.

29 (F) A local law enforcement agency for the purpose of carrying
30 out the duties described in Section 290.96 of the Penal Code.

31 (G) Upon request, parents seeking local day care services may
32 receive the names and telephone numbers of local small family
33 day care providers.

34 (e) The department, in consultation with the Child Development
35 Division of the State Department of Education, shall adopt
36 regulations relating to the confidentiality of information provided
37 pursuant to subdivision (b) on small family day care homes. These
38 regulations shall include procedures for updating lists or other
39 information on small family day care providers to ensure referral
40 only to licensed homes in good standing with the department. Any

1 ~~person or entity violating the regulations under this subdivision~~
2 ~~may be denied access by the department to information on small~~
3 ~~family day care homes and shall be reported by the department to~~
4 ~~the appropriate funding or licensing department.~~

5 *SECTION 1. Section 1596.86 of the Health and Safety Code*
6 *is amended to read:*

7 1596.86. (a) The director shall annually publish and make
8 available to interested persons a list or lists covering all licensed
9 child day care facilities, other than small family day care homes,
10 and the services for which each facility has been licensed or issued
11 a special permit. The lists shall also specify the licensed capacity
12 of the facility and whether it is licensed by the department or by
13 another public agency.

14 (b) ~~To encourage the recruitment of small family day care homes~~
15 ~~and protect their personal privacy, the department shall prevent~~
16 ~~the use of lists containing names, addresses, and other identifying~~
17 ~~information of facilities identified as small family day care homes,~~
18 ~~except as necessary for administering the licensing program,~~
19 ~~facilitating the placement of children in these facilities, and~~
20 ~~providing the names and addresses to resource and referral agencies~~
21 ~~funded by the State Department of Education, food and nutrition~~
22 ~~programs funded by the State Department of Education, alternative~~
23 ~~payment programs funded by the State Department of Education,~~
24 ~~county programs under the Greater Avenues for Independence Act~~
25 ~~of 1985 (Article 3.2 (commencing with Section 11320) of Chapter~~
26 ~~2 of Part 3 of Division 9 of the Welfare and Institutions Code),~~
27 ~~family day care organizations, or specialized health care service~~
28 ~~plans licensed under the Knox-Keene Health Care Service Plan~~
29 ~~Act of 1975, as contained in Chapter 2.5 (commencing with Section~~
30 ~~1340), which provide employee assistance program services that~~
31 ~~include child care referral services. Upon request, parents seeking~~
32 ~~local day care services may receive the names and telephone~~
33 ~~numbers of local small family day care providers. follows:~~

34 (1) *To the extent necessary to administer the licensing program.*

35 (2) *To the extent necessary to facilitate the placement of children*
36 *in these facilities.*

37 (3) *To provide the names and addresses of these facilities to the*
38 *following entities:*

39 (A) *Resource and referral agencies funded by the State*
40 *Department of Education.*

1 (B) Food and nutrition programs funded by the State
2 Department of Education.

3 (C) Alternative payment programs funded by the State
4 Department of Education.

5 (D) County programs under the Greater Avenues for
6 Independence Act of 1985 (Article 3.2 (commencing with Section
7 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
8 Institutions Code).

9 (E) Family day care organizations.

10 (F) Specialized health care service plans licensed under the
11 Knox-Keene Health Care Service Plan Act of 1975, as contained
12 in Chapter 2.5 (commencing with Section 1340), that provide
13 employee assistance program services that include child care
14 referral services.

15 (G) A local law enforcement agency for the purpose of carrying
16 out the duties described in Section 290.96 of the Penal Code.

17 (H) Upon request, parents seeking local day care services may
18 receive the names and telephone numbers of local small family
19 day care providers.

20 (c) The department, in consultation with the Child Development
21 Division of the State Department of Education, shall adopt
22 regulations relating to the confidentiality of information provided
23 pursuant to subdivision (b) on small family day care homes. These
24 regulations shall include procedures for updating lists or other
25 information on small family day care providers to ensure referral
26 only to licensed homes in good standing with the department. Any
27 person or entity violating the regulations under this subdivision
28 may be denied access by the department to information on small
29 family day care homes and shall be reported by the department to
30 the appropriate funding or licensing department.

31 SEC. 2. Section 290.96 is added to the Penal Code, to read:

32 290.96. A county sheriff, a chief of police of a city or a campus
33 of the University of California, the California State University, or
34 community college, or any other person or entity that registers a
35 person required to register pursuant to the Sex Offender
36 Registration Act (Sections 290 to 290.023, inclusive) shall, at the
37 time of registration, do all of the following:

38 (a) Determine whether the person required to register under the
39 Sex Offender Registration Act is registering at a residence or place
40 of employment that is prohibited by Section 3003.6, by using the

1 information provided under Section 10613.3 of the Welfare and
2 Institutions Code and any additional information available for this
3 purpose.

4 (b) Notify the person required to register under the Sex Offender
5 Registration Act when his or her registered residence or place of
6 employment would be prohibited by Section 3003.6.

7 (c) Take appropriate law enforcement action if it has jurisdiction
8 or notify an appropriate law enforcement entity with jurisdiction
9 if, after being notified under subdivision (b), the person registers
10 at a residence or place of employment that is prohibited by Section
11 3003.51.

12 (d) Immediately, or as soon as practicably possible, report in
13 writing or by telephone, facsimile, or electronic transmission to
14 the county child welfare agency and the Department of Social
15 Services regarding the registration of a person at a residence or
16 place of employment at which a child who has been, or may be,
17 declared a dependent of the court pursuant to Section 300 of the
18 Welfare and Institutions Code resides. If a law enforcement agency
19 makes a report by telephone, the agency shall mail, or send by
20 facsimile or electronic transmission, a written report within 36
21 hours of its telephone report.

22 SEC. 3. Section 3003.6 is added to the Penal Code, to read:

23 3003.6. (a) A person required to register under the Sex
24 Offender Registration Act (Sections 290 to 290.023, inclusive)
25 shall not reside, except as a client, and shall not work or volunteer,
26 in any of the following, unless a juvenile court has waived the
27 prohibition in accordance with Section 361.35 of the Welfare and
28 Institutions Code:

29 (1) A foster home or facility that is licensed by the State
30 Department of Social Services or a county child welfare services
31 agency.

32 (2) A certified home of a foster family agency.

33 (3) A home or facility that receives a placement of a child who
34 has been, or may be, declared a dependent child of the juvenile
35 court pursuant to Section 300 of the Welfare and Institutions Code.

36 (b) A person who violates subdivision (a) is guilty of a
37 misdemeanor.

38 SEC. 4. Section 361.35 is added to the Welfare and Institutions
39 Code, to read:

1 361.35. A court may waive the prohibition in subdivision (a)
2 of Section 3003.6 of the Penal Code if both of the following are
3 true:

4 (a) The residence is that of a noncustodial parent, a relative, or
5 a nonrelative extended family member who receives a placement
6 of a child who has been, or may be, declared a dependent child of
7 the juvenile court under Section 300.

8 (b) The court makes a finding that the placement of the child
9 in the residence is in the best interest of the child.

10 SEC. 5. Section 10613.3 is added to the Welfare and
11 Institutions Code, to read:

12 10613.3. The State Department of Social Services shall, no
13 later than January 1, 2014, provide to each county sheriff, each
14 chief of police of a city or a campus of the University of California,
15 the California State University, or community college, and every
16 other person or entity that registers a person required to register
17 under the Sex Offender Registration Act (Sections 290 to 290.023,
18 inclusive, of the Penal Code) the addresses, or other equivalent
19 data, of all of the following within the jurisdiction of the sheriff,
20 chief of police, or other person or entity:

21 (a) Each foster home or facility licensed by the State Department
22 of Social Services or a county child welfare agency.

23 (b) Each home certified by a foster family agency.

24 (c) Each home or facility whose address is not otherwise
25 provided under subdivision (a) or (b) that has been approved to
26 receive a placement of a child who has been, or may be, declared
27 a dependent child of the juvenile court under Section 300.

28 SEC. 6. Section 10613.4 is added to the Welfare and
29 Institutions Code, to read:

30 10613.4. (a) ~~Peace officers from the~~ *Investigators of the State*
31 Department of Social Services shall, no less frequently than each
32 calendar quarter, compare the residence and employment addresses
33 of persons required to register under the Sex Offender Registration
34 Act (Sections 290 to 290.023, inclusive, of the Penal Code) against
35 the addresses of all of the following:

36 (1) Each foster home or facility licensed by the department or
37 a county child welfare agency.

38 (2) Each home certified by a foster family agency.

1 (3) Each home or facility that has been approved to receive a
2 placement of a child who has been, or may be, declared a dependent
3 child of the juvenile court under Section 300.

4 (b) If ~~peace officers~~ *investigators* from the department determine
5 that an address specified in paragraphs (1) to (3), inclusive, of
6 subdivision (a) matches the residence or employment address of
7 a person required to register under the Sex Offender Registration
8 Act the department shall take appropriate action as authorized by
9 law to further the purposes of Section 3003.6 of the Penal Code.

10 (c) The ~~peace officer~~ *investigator* shall also immediately, or as
11 soon as practicably possible, make a report in writing or by
12 telephone, facsimile, or electronic transmission to the appropriate
13 county child welfare agency and the Department of Social Services
14 of the match so that the agency may evaluate what action or
15 actions, if any, would be in the best interest of the child. If a ~~peace~~
16 ~~officer~~ *an investigator* makes a report by telephone, the ~~officer~~
17 *investigator* shall mail or send by facsimile or electronic
18 transmission a written report within 36 hours of his or her telephone
19 report.

20 (d) *For purposes of this section, "investigator" is an investigator*
21 *of the State Department of Social Services who is authorized to be*
22 *a peace officer pursuant to subdivision (h) of Section 830.3 of the*
23 *Penal Code.*

24 SEC. 7. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution for certain
26 costs that may be incurred by a local agency or school district
27 because, in that regard, this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty for a crime
29 or infraction, within the meaning of Section 17556 of the
30 Government Code, or changes the definition of a crime within the
31 meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 However, if the Commission on State Mandates determines that
34 this act contains other costs mandated by the state, reimbursement
35 to local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code.